

Central Valley Regional Water Quality Control Board  
25/26 October 2007 Board Meeting

Response to Comments for the City of Colfax Wastewater Treatment Plant  
Tentative Waste Discharge Requirements and Cease and Desist Order

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The following are Regional Water Quality Control Board, Central Valley Region (Regional Water Board) staff responses to comments submitted by interested parties regarding the tentative Waste Discharge Requirements (NPDES Permit renewal) and Cease and Desist Order for the City of Colfax Wastewater Treatment Plant. Public comments regarding the proposed Orders were required to be submitted to the Regional Water Board by noon on 26 September 2007 in order to receive full consideration. In addition, written and oral comments were required to be limited to the proposed revisions identified in "underline/strike-out" text in the tentative WDRs and CDO addressing the following issues that are the basis of the continuation of the public hearing:

- Ammonia limitations
- Nitrate compliance schedule and interim limitations
- Discharge flow limitations
- Changes to time schedules and due dates

The Regional Water Board received comments regarding the tentative Order by the deadline from City of Colfax (Discharger), and Allen and Nancy Edwards. Comments were submitted shortly after the deadline by Lawyers for Clean Water, and Michael Garabedian for Friends of the North Fork. Some of the comments received addressed issues outside the scope of the continued hearing. Copies of the comments posted on the website and placed in the file with the agenda package were marked to indicate those comments which were not accepted into the record because they were outside the scope of the continued hearing.

Comments within the scope of the hearing are summarized below (original numbering of comments left intact), followed by staff responses. Also, where comments outside the scope indicated minor typographic or technical errors, some edits were made to the Orders to correct the errors, but are not discussed below.

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**CITY OF COLFAX (DISCHARGER) COMMENTS**

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We understand that the Board directed that further comments would be limited to the following issues:

1. Copper Effluent Limits
2. Nitrate Effluent Limits
3. Inflow and Infiltration issues as addressed in the proposed Cease and Desist Order
4. The requirement and schedule for lining the City's storage pond

Attached is a detailed table of comments concerning the Revised Permit language. Because the Public Hearing is limited to four specific items we have separated our comments into two categories. The first are comments related to specific items to be discussed during the Public Hearing. The second list of comments is general and reflects clarifications we believe would be appropriate and points we want outlined in the record. If they are not addressed now, they may become problems in the future that will require amendment of the permit.

With respect to the remaining issues that are now before the Board, there appear to be two that continue to be major concerns to the City—the schedule for completion of the liner to the Storage Pond and the language with respect to I/I requirements in the proposed Cease and Desist Order (CDO). The City believes that the current language in the Permit and CDO with respect to these issues imposes unreasonable requirements that the City is not likely to be able to meet. With respect to the liner, in order to design the liner, it is first necessary to analyze the geotechnical conditions of the bottom of the storage pond, particularly to determine, (as appears likely), whether there are springs feeding into the pond. In order to do that analysis, the pond must be drained completely, and the accumulated sludge removed and treated. This can only be done in the limited time after the pond has been dewatered. We have just now drained the pond down to the level where we can begin sludge removal. However, we first have to remove and treat the concentrated “black water” left in the pond above the sludge layer. This will require bringing in special treatment equipment. Locating and ordering such equipment is taking time to set up. It is not clear that we can do that and complete the dewatering before the winter rains set in and begin refilling the pond. If we cannot, then the analysis and liner design will have to wait until mid summer of 2008 at the earliest. If the winter rains are abnormally large, this date could be pushed off even later. This would make hitting an October 2008 deadline for completion of the liner impossible. Our professional engineers at HDR and TLA advise that an additional year to October of 2009 will be needed to complete geotechnical analysis, design the liner and any drains, and install it. We therefore request that the deadline for completion of the liner be modified to October of 2009 rather than October of 2008. If that is not acceptable, then, at a minimum, the requirement should be modified to provide a provision authorizing the Executive Officer to extend the deadline “for good cause”. This would allow us to make a case to the Executive Officer if the liner installation process takes longer than anticipated.

The second issue relates to the I/I compliance order portion of the CDO. As written the order requires the City to “eliminate excessive I/I as defined by 40 CFR 35.2005(b)(16). We submit that the City has no “excessive I/I” under that legal definition. The plant has been designed to handle the present levels of I/I and therefore the I/I does not “result in chronic operational problems” as specified in the definition.

Nonetheless, if the Board is going to insist on an effort by the City with respect to I/I, at a minimum, the language of the order should be modified to require “a good faith effort to reduce I/I”, not eliminate it entirely. Given the age of the City’s system and large

number of private laterals, the fact that Colfax receives nearly 50 inches of rain a year, and the limited resources of a city of less than 2000 citizens, it is probably both physically and fiscally impossible to “eliminate” what the Board believes to be “excessive I/I” even within 5 years. Indeed, our engineers question whether even significant reductions in I/I reaching the plant are feasible without replacing the entire collection system and all private laterals.

The California Legislature has found and declared that activities affecting water quality “shall be regulated to attain the highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.” See Water Code §13000 (emphasis added). This section sets state policy and imposes an overriding requirement on the Regional Boards that all orders be reasonable considering all circumstances. Here to demand that the work for the liner be done in one calendar year and that within five years, the City “eliminate” excessive I/I is to demand the impossible. That is unreasonable and the language needs to be modified as suggested above, if it is to comply with the requirements of the Porter Cologne Act and basic fairness.

**Response:** The comments summarized above are outlined in more detail in the table below. Staff responded to the comments that were within the scope of the noticed hearing item (shown in bold font below the comment).

CITY OF COLFAX – AUGUST 27, 2007 DRAFT WDR COMMENTS			
Comments related to October Public Hearing Items			
1	CDO Page 4 First Paragraph of “TASK”	<p>The language of this provision would require the City to “eliminate” I/I within the period of the CDO. Given the age of the City system and large number of private laterals beyond the City control, the amount of rainfall the City receives, and the small size of the City and sewer treatment budget, elimination of I/I is both physically and fiscally impossible, even within 5 years.</p> <p>This requirement should be reworded to read as follows:</p> <p>“Prepare and implement a Capital Improvement Program to provide repairs to the collection system <u>in a good faith effort to reduce</u> excessive I/I as defined in 40 CFR 35.2005(b)(16)”</p> <p><b>The language of the provision provides that the City conduct work to repair its collection system over the term of the Order, and allows the Regional Water Board to determine if additional corrections are needed, or if discharge flow limitations should be modified after work is completed for the next permit term. Full compliance with the flow limitations are not required until the Regional</b></p>	

		<b>Water Board determines, in another public hearing, that this would be an appropriate decision. Staff note that the deadline to submit the summary report on progress to correct I&amp;I should have been at the end of the permit term on 1 October 2012 rather than 1 October 2013. The CDO was modified to correct the date. No other changes are proposed.</b>	
1	CDO Page 5, 2. Task Schedule	<p>The City is concerned that the schedule in the permit and in the CDO is optimistic and that if there are any weather delays or other delays beyond the control of the City that the schedule cannot be met. We would therefore ask that after the schedule the following sentence be added:</p> <p>“The Executive Director is authorized to modify the schedule to meet the completion date for the Phase 2 construction for good cause. Should such a schedule change be granted the progress reporting schedule will also be extended.”</p> <p><b>The proposed schedule to comply with Discharge Prohibition A, as it relates to seepage from the Storage Reservoir, was developed based on the City’s original determination as to how long it would take to correct the problem. Staff supports that any further extension should only be authorized based on a determination by the Regional Water Board at the October meeting. Therefore, no change was made based on the comment.</b></p>	
<b>General Comments for the record and clarification</b>			
10	Page E-15, Table E-10	<p>The third Item in the table appears to have some extra words at the end of the sentence. Should the end of the sentence be located after “nitrate”?</p> <p><b>Staff determined, after the tentative Order was issued, that due to legal requirements, the nitrate time schedule must be in the CDO. The language was adjusted to address both these issues.</b></p>	
12	Page F-1, Table F-1	<p>The facility permitted and design flows in this table are for the interim plant shouldn’t there also be information for the new plant in this table or is it only for the existing (interim) plant?</p> <p><b>Staff agrees that the Table should clarify the design flows for both the interim tertiary treatment system and the new wastewater treatment plant. Table F-1 was modified to refer to both treatment systems.</b></p>	

20	Page F-17, IV, B. 2. b.	<p>In the second paragraph, the eleventh line after “dry weather” insert the word “design”. On the same line at the end after “future” insert the word “design”. This is to clarify that these are not the actual Average Daily Dry Weather Flow (ADDWF) but are the design ADDWF for the interim and new plants.</p> <p><b>Staff agrees that the text should clarify that the values described represent the design flows for both the interim tertiary treatment system and the new wastewater treatment plant, and not the actual flows. The text was modified as suggested for clarification.</b></p>	
21	Page F-18, IV. B. 2. b. paragraph 1	<p>The flow numbers appear to be switched I this paragraph.</p> <p><b>Staff believe the flow numbers as stated are correct.</b></p>	
22	Page F-39, Table F-8	<p>The units for AMEL and MDEL appear to have a typo. Should they be ug/L or mg/L not ugm/L?</p> <p><b>The typographical errors in Table F-8 have been corrected.</b></p>	
25	Page F-48, Table F-14.	<p>Footnote (2) the flow rate should be 0.275 for the design treatment capacity for the new treatment plant.</p> <p><b>Staff agrees that the footnote is incorrect. The footnote was modified to refer to a flow of 0.275 mgd.</b></p>	
29	CDO Page 2. 5.	<p>At the end of this paragraph add the following: “and have not achieved substantial reductions when I/I projects have been performed” Our data to date indicates that when we have performed these projects we have not seen significant reductions in I/I.</p> <p><b>Your comment is noted.</b></p>	
32	CDO Page 4, 1.	<p>The last paragraph has the maximum flow rates for the Interim and new plants reversed. The maximum requested flow for the interim is 0.65 mgd and the maximum for the new plant is 0.5 mgd.</p> <p><b>The typographic error was corrected.</b></p>	
33	General comment relative to existing tertiary plant and the proposed New Plant	<p>The design system treatment and discharge capacity is 0.5 mgd. This is irrespective of the daily influent flow which can vary depending on season and day of week from 0.15 +/- mgd to 2.2 +/- mgd. The plant treated daily discharge of 0.5 mgd provides capacity to allow for the inflow fluctuations greater than 0.50 mgd to be stored and receive partial treatment in the Ponds 1, 2 and storage pond 3 if needed (used as equalization ponds) until plant inflow becomes less than 0.50 mgd when the stored effluent can be pumped back to the treatment process to result in a resultant treated discharge of 0.50 mgd.</p>	

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		<b>Your comment is noted.</b>	
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### **ALLEN AND NANCY EDWARDS COMMENTS**

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Comments 1 through 10 are connected with continuing problems at the Colfax sewage system. The format for these comments is as follows:

- a) First, the problem area that the permit should address
- b) Second, the permit's response to this problem area, if any
- c) Third, the response to this specific problem that should be added to the CDO and/or the permit.

Comments 11 through 27 are additional comments relating to other errors, omissions, and problems with the draft.

**Comment 3.** Problem: The plant (including its storage system) has insufficient hydraulic capacity to accommodate wet season inflows

- a) The Colfax plant has a long history of spilling from the storage reservoir during the wet season.
- b) Despite this history, the City has never been fined or faced other consequences for any of the spills.
- c) Current permit set inflow limits for the dry season at 160,000 gallons/day in order to avoid spills;
- d) Even with this permit limit, and with an interim plant treatment capacity of 0.65 mgd, the plant spilled in 2005/6;
- e) The City has flow calculations (which are flawed) demonstrating that the upgraded plant will not spill. But the planned upgrade will have lower treatment capacity than the current configuration. In addition, the City's flow analysis used inflow data from the year 2000, an average precipitation year, rather than 2005/6, a high precipitation year;
- f) There is an open question on the capacity of the storage pond. The City has variously stated that the capacity is 51 and 69 million gallons. They used 69 million gallons in their flow analysis, but there are strong indications that this is an overstatement. There are other questions about assumptions used in the city's flow analysis, such as the area receiving rainfall.
- g) All facts considered, it appears that the treatment system upgrade does not have sufficient treatment capacity to accommodate high inflows during wet years.

Draft Permit Response:

- a) The draft mis-stated current inflow limit - stating that it is 200,000 dry season gallons/day when it is, in fact 160,000 gallons per day. (See additional comment #11 below for more detailed.)
- b) The draft mis-stated the situation with spills from the system (see additional comment #13 below).
- c) The draft relies on the City's flawed flow analysis.
- d) The draft functionally eliminates inflow limits.
- e) The draft sets annual average discharge limits at 0.5 mgd for the interim plant, and 0.65 mgd for the upgraded plant. But flow analysis using historic inflows and rainfall indicate that, with these discharge limits the plant is likely to spill during high precipitation years. In addition, the draft lists the limit for the interim at 0.5 mgd when the City says its capacity is 0.65mgd; and lists the limit for the upgraded plant at 0.65 mgd when the planned capacity is 0.5 mgd.
- f) The discharge limits in the draft would immediately violate the City's EIR for its plant upgrade
- g) This draft would, in practice, eliminate any restriction on hookups.

Needed:

- a) Correct the misstatements in the draft regarding the current inflow limit.
- b) Order Board staff to conduct a flow analysis using reasonable worst-case assumptions (using 2005/6 historic flow and precipitation data, and verified assumptions on storage reservoir capacity, plant area, etc). Present this analysis for public review and input.
- c) Order an immediate review of the capacity of the planned upgrade to determine whether it has sufficient capacity to accommodate likely inflows. This review should be conducted in a public forum;
- d) Order the city to increase the capacity of the upgrade if analysis shows the current plans are inadequate;
- e) Correct the confusion of discharge limits between the current plant and the upgraded plant.
- f) Order an immediate moratorium on new hookups. This should stay in place until the City has fixed all system problems - collection, storage, and treatment, and has completed an upgrade that accommodates current flows and future growth.
- g) Order explicit and automatic penalties for spilling from the storage reservoir, and any other part of the sewage system.

**Response:** The comments related to the treatment plant and storage pond capacities, connection bans, EIR, and penalty assessments are outside the scope of issues open for public comment at this time.

Staff believe that the tentative Order (including the fact sheet in Attachment F) accurately discuss and regulate effluent limitations for flow. Staff acknowledges that

although the findings in Order No. 5-01-180 indicate the design treatment plant flow to be 200,000 gallons per day, the Order does regulate influent flow to 160,000 gallons per day due to concerns over land disposal capacity. Effluent limitations contained in Order No. 5-01-180 were, however, based on a 200,000 gallons per day design treatment plant flow. Effluent limitations for discharges from the interim tertiary treatment system in the tentative Order are also based on 200,000 gallons per day, consistent with the previous Order. The tentative Order does not include restrictions on influent flow to the treatment system. The influent flow limitation in Order No. 5-01-180 was included to prevent excess flows beyond the land application area capacity. Because that method of wastewater disposal is no longer practiced, an influent flow limitation is no longer necessary. The restrictions on effluent flow in the tentative Order, and the CDO requirements to implement I/I corrections are adequate.

In the last paragraph of Provision 1 in the CDO, the maximum flow rates for the interim tertiary treatment system and the new wastewater treatment plant were reversed. The CDO has been corrected to indicate that the interim maximum flow rate for the interim system is 0.65 mgd and the maximum flow rate for the new plant is 0.5 mgd.

**Comment 4.** Problem: Collection system leaks, and allows in I&I -- The leaks in the collection system are causing the hydraulic overload to the treatment system, and causing the spills. They are also causing direct water and air pollution in the City. Correcting these problems is crucial to bringing the city into compliance with water quality laws.

- a) City data shows that winter inflows to the system are as much as 40 times higher than dry season inflows.
- b) The collection system leaks to headwaters of Bunch creek
- c) There are often widespread sewage smells in the center of the Colfax business district.

Draft Permit Response:

- a) The CDO discusses I&I repairs, but:
  - a. Requires a backwards process for accomplishing the repairs (the CDO first orders implementation of a "capital improvement program", then analysis of the needs, then monitoring to provide data for the needs analysis. These three elements should be done in reverse order.)
  - b. The CDO is ambiguous on when and to what degree the I&I repairs need to be completed (The CDO orders implementation of an I&I repair program by March 2008, but then seems to give the City until October 2013 to evaluate that program - presumably giving them until 2013 to complete the work. Even if the City were to totally reconstruct its collection system, it should not take 6 years).
  - c. The CDO does not actually require the City to fix the I&I problems.



- d. The CDO talks about fixing the high inflow problems but does not talk about fixing the leaks out of the system into Bunch creek.
- e. The CDO does not speak to odor problems within the city.

Needed:

- b) Order an aggressive program, with milestones, to rebuild the collection system - to stop all I&I into the system (and all leaks out, See #14 below);
- c) This order should require that the collection system is completely repaired within 3 years of its issuance.
- d) Order explicit and automatic penalties for missing the deadline and milestones

**Response:** Because the City already completed an I&I study in 2005 that identified projects needing to be completed to correct some problem areas, the CDO required that the Capital Improvement Program be implemented at the same time as the detailed assessment of the condition of the collection system. Additional monitoring of the collection system, required by the fall of 2008, will provide further information regarding additional corrections needed. Staff does not believe it is appropriate to delay already identified significant collection system repair work pending further studies. As additional studies and monitoring are completed, in accordance with the Order, additional work priorities will be identified.

It is not reasonable to expect the collection system to be completely repaired within 3 years. Corrective actions to reduce I&I can be very expensive and may not completely eliminate the problems. It may take several years of monitoring and repair/retrofit of the system before significant reductions are observed. It remains uncertain whether the proposed \$90,000/year budget for I&I repairs will be adequate to accomplish significant progress, and may need to be increased to ultimately correct significant I&I problems.

Regarding explicit and automatic penalties for failure to meet deadlines and milestones, the Regional Water Board maintains authority to issue penalties for non-compliance.

**Comment 10.** Problem: The City wants to immediately add hookups to its sewage system even though this system is hydrological and biologically overloaded, and has a long history of faulty operation and inadequate compliance.

Draft Permit response:

- a) Even though the Board discussed a moratorium during the June hearing on this permit, the current draft is silent on the issue.

Needed:

- a) The Board needs to order a complete moratorium on all sewage hookups to the Colfax system.

- b) This order needs to remain in place until all problems associated with the system have been corrected, and the City has thoroughly proven that it can operate the system without violations.

**Response:** The comment is noted. California Code of Regulations Section 2244 outlines the conditions under which a prohibition or restriction on additional connections can be authorized. Staff does not believe the current conditions in Colfax support a moratorium at this time. However, if we determine in the future that a prohibition is appropriate, the Regional Water Board has authority to issue such an Order at that time.

**Comment 11.** The draft permit, CDO, and Fact Sheet incorrectly state that the current system is permitted at and is operating at a dry weather inflow of 0.2 million gallons per day. Effluent limits for specific pollutants are based on this incorrect number. The permit, CDO, and Fact Sheet, including the effluent limitations must be corrected

CDO page 1, Fact Sheet pages F-3, F-17, F-44, F-46, draft permit pages 9, 10, and others all state that the current dry weather inflow is 0.2 mgd or contain limitations based on an inflow of 0.2 mgd. The 2001 permit limits dry weather inflow to no more than 0.16 mgd, and at the June 2007 Regional Board meeting the city engineer testified that the current facility has a dry weather inflow of 0.16 to 0.165 mgd. Therefore, the statement in the documents that the inflow is currently 0.2 mgd is incorrect and basing the permit and CDO on this incorrect number allows the city to immediately increase the inflow of sewage into the current system by 25%. This increase should not be allowed for the following reasons:

a) City staff told us and Regional Board staff at a meeting on July 24, 2007 that they could have difficulty meeting the deadline for lining the storage reservoir because the current system may not be able to treat all of the current inflow. By allowing 25% more sewage into the current system, it would be more difficult for the city to meet the deadline and more likely that the downstream users and the environment will continue to be exposed to leakage from the reservoir.

b) The Department of Health Services has found that the current system does not adequately disinfect the wastewater; allowing an increase in sewage into the plant would increase the amount of inadequately disinfected effluent going into the creek, American River, etc.

c) In the past, the plant has frequently spilled partially treated wastewater. Increasing the sewage into the facility will increase the likelihood and the amount of spills.

If the Regional Board staff intend to allow a 25% increase in sewage into the facility, they must very clearly state that that is their intent, so the Board members are not misled into believing that the new permit and CDO are not allowing increased inflow into the current system. This would require correcting all statements that suggest the current

inflow is 0.2 mgd and making a very clear statement that the permit will allow immediate increases. As noted throughout our comments, we are strongly opposed to allowing more hookups until all problems at the plant have been corrected.

If, on the other hand, the intent is to not allow immediate increase in sewage inflow into the current system, then the permit, CDO and Fact Sheet must be changed so all references to 0.2 mgd and all limitations based on this number are corrected. The correct number is 0.16 mgd.

**Response:** See response to Comment 3 (Allen and Nancy Edwards Comments).

**Comment 12.** CDO page 2 states that lining the storage reservoir will provide a significant reduction in discharge flows to the receiving waters. No basis is provided for this statement; no data are available on the amount of groundwater seepage or the amount of seepage of wastewater into the ground.

**Response:** The complete statement in the CDO states, "Installation of a liner will not prevent further groundwater seepage under the liner, but it would prevent further wastewater seepage, allowing the Discharger to cease treatment of seepage flows, and providing a significant reduction in discharge flows to the receiving water." The basis for assuming a significant reduction of discharge flows was that the Discharger would no longer need to collect seepage for treatment.

**Comment 21.** Fact sheet page F-6 states that discharge is currently limited to 0.5 mgd. This is not true. City reports and monitoring data show 0.65 mgd or more. The current permit limits the City to a discharge of disinfected seepage only. This would be a substantially less than either 0.5 or 0.65 mgd.

**Response:** The Fact Sheet discussion of discharge on page F-6 is in regard to the treatment capacity of the interim plant, and was not stated to be an effluent flow limitation in the permit.

**Comment 22.** Table F-2 lists highest daily discharge as 2.0 mgd from the current facility without justification. The City's monitoring data show the peak discharge is considerably higher.

**Response:** The 2.0 mgd value was the highest reported effluent flow contained in the Discharger's self-monitoring reports for the period from July 2001 through October 2005.

## **A. Nitrate Effluent Limitations**

The Draft Permit contains an Interim Nitrate Nitrogen, Total (as N) Effluent Limitation of 16.76 mg/L (Draft Permit, Attachment F, p. F-50), and a Final Effluent Limitation of 10 mg/L monthly average (Draft Permit, Table 7, p. 11). The Draft Permit explains that in reaching the Interim Nitrate Effluent Limit, the Regional Board assumes that complete nitrification occurs in the existing wastewater treatment system, and that the new treatment plant may need a compliance schedule to meet the Final Effluent Limitation. See Draft Permit, Fact Sheet, p. F-50 & F-29 respectively. However, the Draft Permit fails to explain that the new wastewater treatment plant does not include denitrification as part of the new treatment plant design. The Draft Permit Final Effluent Limitation for Ammonia is a monthly average of 0.8 mg/L and maximum daily limit of 2.1 mg/L. See Draft Permit, Table 7, p11. These effluent limits essentially require complete nitrification. Compliance with the 10 mg/L Effluent Limit for Nitrate will in the presence of complete nitrification will require denitrification in the treatment plant. Therefore, the Draft Permit requires Colfax to meet a Final Effluent Limitation that is not included in the new wastewater treatment plant design specifications, and Colfax will almost certainly violate the Nitrate Final Effluent Limit immediately upon operation of the new wastewater treatment plant.

The Draft Permit and/or the Proposed CDO must include a requirement that Colfax immediately begin design to modify the new wastewater treatment plant to ensure compliance with the Nitrate Effluent Limitation and that the existing construction contract be modified through a change order to include de-nitrification. Failure to do so will result in an extended period of noncompliance with Interim Effluent Limitations while Colfax completes the new plant. Once the plant is completed Colfax will immediately begin to violate its Nitrate Final Effluent Limitation, and then have to begin the procurement, design, and bidding process to construct the necessary modifications to the plant.

Meanwhile, the Interim Permit Effluent Limits for ammonia and nitrate allow Colfax to operate its inadequate interim treatment plant in whatever manner it chooses. The interim ammonia limit is based on a data set that includes very high ammonia effluent values representing little nitrification See Draft Permit, Fact Sheet, pp. F-29, 39 & 50. The Draft Permit requires that Colfax operate the interim plant to nitrify to the maximum extent possible (See Draft Permit, p. 26 & Fact Sheet, p. F-62-63) but sets numerical effluent limits that allow for little or no nitrification. At the same time, the Draft Permit sets a Final Nitrate Effluent Limitation that reflects the Nitrate that would be discharged only if complete nitrification was achieved. See Draft Permit, Table 7, p. 11.

The Environmental Parties request that the effluent limitation for ammonia be revised to reflect operation of the new plant to nitrify to the maximum extent possible and suggest that limit be 5 mg/L based upon Best Professional Judgment. Further, the Draft Permit or the CDO should include a requirement that Colfax modify the design of the new treatment plant to ensure that it will not violate its Final Nitrate Effluent Limitation

immediately upon completion of the new plant and have to modify the plant in the future to meet the Final Effluent Limitations.

**Response:** Staff determined, after the tentative Order was issued, that due to legal requirements, the nitrate time schedule must be in the CDO. Therefore, as part of the agenda package, the Orders were modified to move the time schedule and interim nitrate limitations to the CDO. None of the limitations or compliance dates were changed with the exception of the Order in which they were included. Since the work required of the Discharger has not been modified, staff does not believe the change is significant.

The CDO requires the Discharger to submit a report by 1 January 2008 that outlines its method and schedule to comply with the nitrate limitation, and requires full compliance with nitrate effluent limitations by 1 January 2009. The new wastewater treatment plant design proposes to meet a total nitrogen limit of 10 mg/l, and which should provide for compliance with the ammonia and nitrate limitations. The time schedule requires the Discharger to immediately address any design deficiencies in the current proposed facility such that compliance with the nitrate limitations can be achieved by the proposed deadline. We note that the Discharger has not provided any comments that the proposed schedule is not achievable.

We disagree with the comment that an interim limit for ammonia should be 5 mg/l based on best professional judgment. The facility may not be able to comply with this low concentration until the new facility is operational. The interim limitation is based on appropriate calculations. No change was made.

**B. The Draft Permit's Deferral of Any Justification for a Compliance Schedule for Copper and Nitrates Does not Comply with the State Implementation Plan and the Clean Water Act**

The compliance schedule set forth in the Draft Permit for Copper and Nitrates fails to meet the requirements of the State's implementation plan for toxic pollutant control, Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, Section 2, p. 20 (2005) ("SIP"). The SIP requires a discharger to submit documentation justifying the compliance schedule "before compliance schedules may be authorized in a permit." SIP Section 2.1, p. 19. Specifically, the discharger must (a) demonstrate that diligent efforts were made to quantify pollutant levels in the discharge; (b) explain the source control/pollution minimization efforts currently underway or completed; (c) include a proposed schedule for future control measures; and (d) demonstrate that the proposed schedule is as short as practicable. *Id.*

The Environmental Parties explained in their comments in June that Colfax's failure to provide the justification was in violation of the SIP and a compliance schedule for Copper should not be included in the Draft Permit. The hearing on the Draft Permit was

postponed from June to October, and yet Colfax has still not submitted the required documents to justify a compliance schedule for Copper or Nitrates. See Draft Permit, p. 31. The adoption of the Draft Permit has therefore been deferred for over 90 days, or longer than the June draft permit gave Colfax to submit its justification for Copper. Colfax should have submitted its justification in the past 90 days and should not be granted another 90 days to submit its Copper and Nitrate justification.

The Regional Board cannot include limits in a permit that are *contingent* on the discharger providing its justification following permit adoption, effectively shutting the public out of the process and relying on private staff determinations. See SIP Section 2.1, p. 19. The Regional Board is required to provide notice and allow comments on the Draft Permit requirements. See 40 C.F.R. § 124.10 (Public notice of actions and public notice of comment period). The Regional Board must include the results of Colfax's justification for Copper and Nitrates in the Draft Permit/Fact Sheet to allow for public comment. The Regional Board should not adopt the Copper and Nitrate compliance schedule until Colfax submits the documents required by the SIP, and the Regional Board properly determines the need for a compliance schedule in the Draft Permit.

**Response:** The City of Colfax submitted a revised compliance schedule justification on 1 October 2007 (letter dated 28 September 2007) for copper. The permit was amended to provide updated information in this regard. For nitrate, staff determined that the time schedule needed to be in the CDO, eliminating the need for a specific time schedule justification required by the SIP. Staff believes the time schedule for nitrate compliance is as short as practicable, as it is tied to the construction of the new wastewater treatment plant.

## **II. Environmental Parties Comments Regarding the Proposed CDO**

### **A. The CDO Must Include Regional Board Oversight and Appropriate Milestones that Ensure Compliance with the Permit Limitations Regarding Infiltration and Inflow**

The Proposed CDO explains that Infiltration and Inflow ("I&I") problems with the Colfax collection system will require the Colfax plant to discharge 0.5 million gallons a day ("mgd") of treated effluent in order to process the excess winter I&I flows stored in pond #3. The Proposed CDO requires Colfax to design and then implement a Capital Improvement Plan ("CIP") to address the Colfax collection system I&I problems, and sets forth a time schedule for Colfax to meet the flow requirements in the Draft Permit. See Proposed CDO, Order, ¶ 1. Until the CIP program designed and implemented by Colfax is completed in 2013, the Proposed CDO authorizes Colfax to discharge 0.5 mgd while the existing treatment plant is operational and 0.65 mgd following completion of the new treatment plant. *Id.* The proposed time schedule includes dates for submittal of the CIP and annual reports updating the Regional Board regarding CIP implementation. *Id.* Finally, the Proposed CDO sets 1 October 2013 as the deadline for submittal of a summary report regarding overall compliance with the flow limits in the Draft Permit. *Id.*

The Environmental Plaintiffs initial comment is that the order of I&I compliance dates is incorrect and must be reversed. See CDO Order ¶ 1. The Proposed CDO requires Colfax to develop a CIP and implement the CIP and then install flow monitors at key locations to evaluate I&I problem areas. The Proposed CDO should require Colfax to install and monitor the I&I problem areas, and then develop a CIP that will address each of the key I&I problems. Compliance and implementation should not come before identification of the problems and the dates should be modified.

Further, the Proposed CDO structure does not contain any oversight by the Regional Board to ensure that Colfax's I&I issue is properly addressed. A major concern, as explained in the Environmental Parties' previous comments to the Regional Board, is that Colfax has a history of non-compliance with prior NPDES Permits and CDO's. To ensure that Colfax's CIP will actually improve I&I in the Colfax collection system, the Proposed CDO should require plan submittal and approval by Regional Board staff prior to implementation. Without oversight by the Regional Board, Colfax can and likely will continue its history of implementing failed programs and/or projects that do not ensure compliance with its permit. The Proposed CDO must include oversight by Regional Board staff and/or the public to allow comments on the proposed CIP to ensure that work proposed will actually reduce I&I and will move Colfax towards compliance with its permit.

The Proposed CDO's date for completion of the I&I work (1 October 2013) is too much time given the size of the Colfax collection system. The collection system is only a little over 11 miles of pipes and should not require 6-years of capital improvements prior to reduction of I&I to a level sufficient to allow Colfax to meet its flow limits in the permit. Colfax has under funded its CIP program for the past thirty (30) years and should not be granted another six (6) years to comply with its permit limits. The Environmental Plaintiffs propose a three (3) year CIP program that should allow Colfax to improve I&I sufficiently to meet its permit flow limits.

Finally, the Proposed CDO should include actual milestones that Colfax must meet rather than mere submittal of updates to the Regional Board with no mechanism for the Regional Board to order Colfax to change or improve the CIP. The Environmental Parties propose that Colfax reduce I&I by 33% a year over the 3 year CIP, which would allow Colfax to meet its flow limits by 2010.

**Response:** Please see response to Comment 4 (Allen and Nancy Edwards).

**B. The Regional Board Must Confirm the Size of Pond #3 to Ensure That Overtopping of the Spillway Does Not Occur**

The Proposed CDO references the size of pond #3 as 69 million gallons. However, documents submitted by Colfax and discussions with Regional Board staff indicates that pond #3 may actually have a capacity of 51 million gallons. Obviously, the size of pond

#3 is critical in determining the appropriate flow requirements of the existing and new wastewater treatment plants. Pond #3 overtopped the spillway in 2006 and discharged raw or partially treated sewage during wet weather. Prior to adoption of the Proposed CDO, the Regional Board should confirm the size of pond #3 and use that number to determine whether Colfax's proposed CIP will ensure reduction of I&I to meet the proposed permit flow limits.

**Response:** Staff believes the information in the CDO regarding the volume of the storage reservoir is correct. In addition, the flow requirements are not related to the reservoir volume. Finally, staff does not believe the volume of the storage reservoir relates to the proposed CIP.

### **C. The CDO Should Require Lining of Pond #3**

The CDO addresses I&I and possible leakage from the interim treatment plant to surface waters of the United States (Proposed CDO, Finding ¶ 6 & Order ¶ 2) but it does not require Colfax to prevent seepage to area groundwater. Further, the CDO contains a factual error regarding Pond #3. It continues to assert that Colfax has not dewatered Pond #3, but information available to the Environmental Parties indicates that Colfax dewatered Pond #3 in the summer of 2005 and 2006. Lining Pond #3 will prevent seepage to groundwater if done correctly. The Regional Board should comply with its mandate to protect water quality and require that Colfax complete the project Colfax proposed originally in its March 2004 request to the Regional Board to dewater and line the pond and stop the seepage from the Pond #3 to surface water and groundwater.

**Response:** The CDO requires the Discharger to cease wastewater discharges from the storage reservoir by 1 October 2008. This includes seepage to surface and groundwater. While the Discharger has been partially dewatered to reduce the stored wastewater volumes each summer, it has not been completely dewatered for installation of a liner. The existing language in the CDO is correct. Finally, Water Code Section 13360 states that no waste discharge requirement or other order shall specify the design, location, type of construction, or particular manner in which compliance may be had. Therefore, the CDO can specify that the seepage would violate Discharge Prohibition A, and require the Discharger to cease violating the Prohibition, but it cannot specify what to do to comply.

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### **MICHAEL GARABEDIAN FOR FRIENDS OF THE NORTH FORK**

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Regarding Colfax NPDES Permit No. CA0079529, Friends of the North Fork, a California nonprofit corporation, finds that the Central Valley Regional Water Quality Control Board's tentative order does not address discharge flow and other limitations in a manner that carries out the Regional Board's duty to protect the beneficial uses of the North Fork American River.



The Colfax facility in question discharges through an unnamed tributary into Smuthers Ravine, and then into Bunch Canyon, and then into the North Fork American River near Yankee Jim's Road. We have reason to believe that uncontrolled discharge or leakage from Colfax sewer operations and discharge from other sources enters Bunch Canyon above where Smuthers Ravine enters Bunch Canyon. We are also concerned that Live Oak Canyon that discharges into Bunch Canyon between Smuthers Ravine and the North Fork American River may be a source of pollutants. The tentative order has no means identify whether this is the case, or to monitor affected watercourses below the discharge point, nor does it have monitoring locations regarding other discharges into Smuthers Ravine and Bunch Canyon. The Regional Board is therefore unable to determine if there are other violators and it is unable to allocate responsibility against Colfax and other possible dischargers whose discharge enters the American River near Yankee Jims Road. Among the beneficial uses immediately affected, including those of a Friends board member, are the significant number of individual property owners and who use the North Fork American River as a source of drinking water for a distance of about 2 1/2 miles downriver from the discharge point into the North Fork near Yankee Jim's Road. Indeed, the North Fork between Yankee Jims Road and Ponderosa Way is probably the most heavily privately populated stretch of the immediate river frontage between Folsom Dam and its headwaters. The time of notable potential Colfax facility discharge in the spring coincides with the North Fork's most active recreational rafting period. The remote municipal drinking water intake for the Placer County Water Agency that is over 16 miles downriver from the discharge point in question near Yankee Jim Road is below the Clementine Reservoir debris dam and is also below the much higher volume Middle Fork American River entry into the North Fork at the confluence. The public interest in the North Fork including private drinking water users and other users requires assurances through monitoring that the water quality is maintained and a mechanism to warn Yankee Jim Road to Ponderosa Way drinking water users when water quality standards are being violated. A mechanism to assure that, if needed, do not use orders go the necessary parties should also be in place.

**Response:** The work required pursuant to the CDO will provide information to assess I&I, as well as potential leakage (exfiltration) from the collection system. Based upon the information, additional monitoring and/or corrective actions may be appropriate. However, the situation at this time is not clear, and there may also be other sources of pollutants such as from septic tanks in the area, and storm water runoff. Since the Orders under consideration regulate only the sewage collection system and wastewater treatment plant, the Discharger should not be required to evaluate under these Orders the impacts from other pollutant sources.

[Other comments were outside the scope of issues open for public comment at this time.]